

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:	)	CASE NO. 17-13379
	)	
BINYAMIN MALUL	)	CHAPTER 13 PROCEEDING
	)	
Debtor.	)	JUDGE ARTHUR I. HARRIS

**MOTION TO PAY MORTGAGE OUTSIDE THE PLAN EFFECTIVE  
WITH THE INSTALMENT DUE JANUARY 1, 2019**

Now come Debtor, by and through counsel, and hereby moves this Honorable Court for an Order authorizing her to opt out of making conduit mortgage payments to Fay Servicing LLC and its successors (the “Creditor”), in order to insure that future payments are made timely and to save the administrative fees associated with the conduit mortgage payments for the benefit of other creditors.

For cause, the Court approved the permanent mortgage loan modification between Debtor’s spouse and the Creditor by Order entered May 10, 2018, and the Trustee began making conduit mortgage payments to the Creditor of \$2,328.91 in April 2018. The mortgage is solely in the name of Debtor’s spouse, and the timing of the Trustee’s payment distribution cycle results in payments after the due date. In addition, administrative fees on the conduit mortgage exceed \$100.00 per month. In the meantime, the Trustee filed a Motion to Dismiss on November 19, 2018 because Debtor’s Plan is no longer feasible (Doc 77). Therefore, Debtor proposes to have his spouse pay the mortgage outside the Plan to save the administrative fees, and to adjust his Plan payment to provide for the payment of all remaining claims. Debtor cannot afford to absorb the administrative fees on conduit mortgage payments and maintain Plan feasibility. Accordingly, the requirement of conduit mortgage payments under Administrative Order No. 09-02, Paragraph VII is not appropriate and should be waived effective January 1, 2019 in this case.

WHEREFORE, Debtor requests that this Court enter an Order authorizing his to opt out of making conduit mortgage payments to the Creditor effective with the instalment due January 1, 2019.

Respectfully submitted,

/s/ Charles J. Van Ness  
Charles J. Van Ness (0047365)  
Attorney for Debtor  
6181 Mayfield Road, Suite 104  
Mayfield Hts., OH 44124  
Phone:(440) 461-4433  
Fax: (440) 461-4434  
[CJVLAW@prodigy.net](mailto:CJVLAW@prodigy.net)

CERTIFICATE OF SERVICE

A copy of the foregoing Motion was sent via first-class U.S. Mail (or ECF) on December 12, 2018, to:

Lauren A. Helbling (via ECF)  
Chapter 13 Trustee  
[ch13trustee@ch.13cleve.com](mailto:ch13trustee@ch.13cleve.com)

Fay Servicing, LLC  
3000 Kellway Drive, Suite 150  
Carrollton, TX 75006

/s/Charles J. Van Ness  
Charles J. Van Ness  
Attorney for Debtor